

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOEL ALMONTE,

Plaintiff,

- against -

ORDER OF SERVICE

NEIL YANDO, DANIEL J. PICCIRILLO, JOHN
P. BROAS, JAMES D. EMSWORTH, STEVEN
TABORDA, RICHARD G. MONTROSS, PEPETO
D. MUNROE, PATRICK BOLBROCK, CHRIS J.
MORICONE,

No. 24-CV-0818 (CS)

Defendants.
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CATHY SEIBEL, United States District Judge:

Plaintiff Joel Almonte, who is currently incarcerated at Upstate Correctional Facility, filed this civil rights complaint *pro se* under 42 U.S.C. § 1983, alleging that, while incarcerated at Fishkill Correctional Facility, multiple John Doe Defendants violated his rights. (ECF No. 1.) By order dated February 16, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees. (ECF No. 8.) On February 27, 2024, the Court issued a *Valentin* Order, in which it ordered the New York State Attorney General to ascertain the identity and badge number of each John Doe who Plaintiff seeks to sue and the addresses where they may be served. (ECF No. 10 at 2.) The Court also ordered that within thirty days of receiving this information, Plaintiff must file an amended complaint naming the John Doe Defendants. (*Id.*)

On April 11, 2024, the New York State Attorney General provided the names and addresses of ten potential defendants. (ECF No. 14.) On June 4, 2024, after being granted an extension of time to file an amended complaint, Plaintiff filed the First Amended Complaint

naming six Defendants. (ECF No. 18. (“FAC”).) On June 11, 2024, the Court then issued an Order of Service, instructing the Clerk of Court to issue a summons for those six Defendants: C.O. James D. Emsworth, C.O. Richard G. Montross, C.O. Patrick Bolbrock, Correctional Sergeant John P. Broas, Retired C.O. Chris J. Moricone, and Sergeant Matthew K. Allers (collectively, the “Initial Defendants”). (ECF No. 19.) The Clerk issued the summons, and the U.S. Marshals Service executed service on the Initial Defendants.

On December 2, 2024, the Initial Defendants filed their Answer to the FAC as well as a letter seeking a pre-motion conference to discuss their anticipated motion to dismiss. (ECF No. 37.) The Court held a pre-motion conference on January 9, 2025, at which time the Court granted Plaintiff leave to amend the FAC. (*See* Minute Entry dated Jan. 9, 2025.) Plaintiff then filed his Second Amended Complaint on January 30, 2025, again naming only the Initial Defendants and three John Doe Defendants. (ECF No. 39 (“SAC”).) On February 3, 2025, the Court ordered that Plaintiff submit a Third Amended Complaint that lists the names of the Defendants he wishes to sue and directed him to refer to the *Valentin* letter for those names. (ECF No. 40.) Plaintiff filed his Third Amended Complaint on February 18, 2025, naming the Initial Defendants (except Sergeant Allers),¹ and four additional Defendants: Neil Yando, Acting Deputy Superintendent of Security Services; C.O. Daniel J. Piccirillo; C.O. Steven Taborda; and C.O. Pepeto Munroe. (ECF No. 41 (“TAC”).)

¹ Accordingly, Sergeant Allers was terminated from the case on February 18, 2025.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on assistance from the Court and the U.S. Marshals Service to effect service.² *See Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Neil Yando, Acting Deputy Superintendent of Security Services; C.O. Daniel J. Piccirillo; C.O. Steven Taborda; and C.O. Pepeto Munroe through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon each of these defendants.

If the TAC is not served within 90 days after the date summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the TAC and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the summons is issued.

CONCLUSION

The Clerk of Court is instructed to issue a summons for Defendants Neil Yando, Acting Deputy Superintendent of Security Services; C.O. Daniel J. Piccirillo; C.O. Steven Taborda; and C.O. Pepeto Munroe, complete the USM-285 form with the address for each of these defendants, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

SO ORDERED.

Dated: February 19, 2025
White Plains, New York



CATHY SEIBEL, U.S.D.J.

SERVICE ADDRESS FOR EACH DEFENDANT

1. Neil Yando, Acting Deputy Superintendent of Security Services
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508-0307
2. C.O. Daniel J. Piccirillo, #60043
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508-0307
3. C.O. Steven Taborda, #58639
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508-0307
4. C.O. Pepeto Munroe, #42226
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508-0307